

**Notice of Allowability**

Application No.

10/764,667

Examiner

Kuo-Liang Peng

Applicant(s)

FALANA ET AL.

Art Unit

1712

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 9/19/06 Amendment.
2. ☒ The allowed claim(s) is/are 3, 5-20, 23, 25-33, 39-42.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
- ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
- ☐ Notice of Informal Patent Application
- ☒ Interview Summary (PTO-413), Paper No./Mail Date 093006.
- ☒ Examiner's Amendment/Comment
- ☒ Examiner's Statement of Reasons for Allowance
- ☐ Other \_\_\_\_\_

Kuo-Liang Peng  
Primary Examiner  
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### **DETAILED ACTION**

1. Applicants' amendment filed on September 19, 2006 is acknowledged. Claims 1, 4, 21, 24 and 38 are canceled. Claims 2-3, 5-8, 10-13, 22-23, 25-28, 30-33 and 39 are amended. Now, Claims 2-3, 5-20, 22-23, 25-37 and 39-42 are pending.

#### ***Examiner's Amendment***

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

3. Authorization for this examiner's amendment was given in a telephone interview with Mr. Rodney B. Carroll on September 21, 2006.

The application has been amended as follows:

In the Abstract (line 3), replace "comprises" with -- contains --.

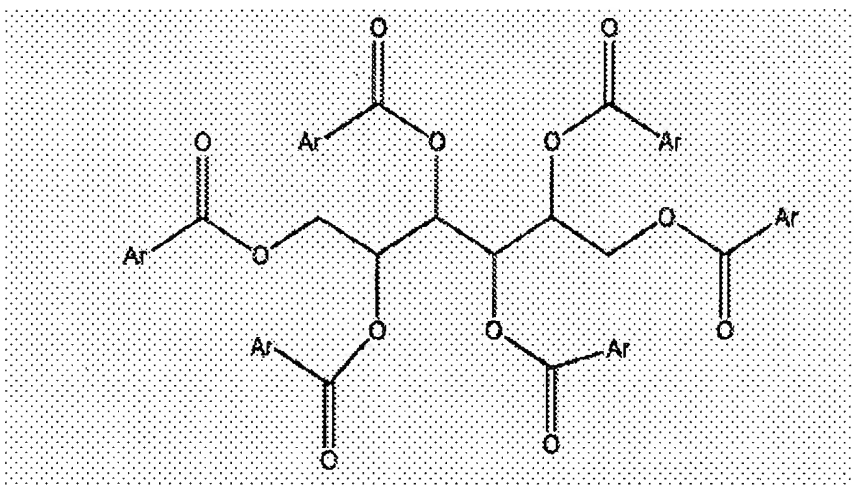
In the Abstract (lines 6 and 8), replace "comprise" with -- contain --.

Delete Claims 2, 22 and 34-37.

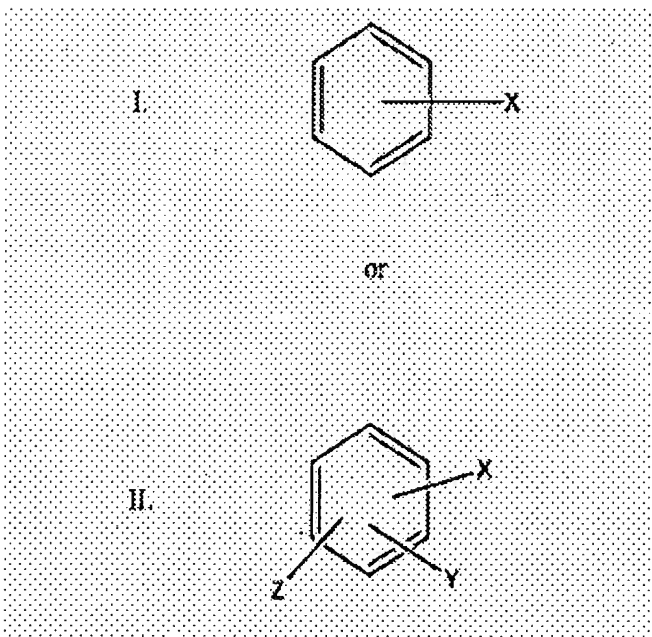
In Claims 9 (last line) and 29 (last line), after "thereof", insert --

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wherein the cystosol ester compound is represented by the following formula:



wherein Ar is represented by the following formula:



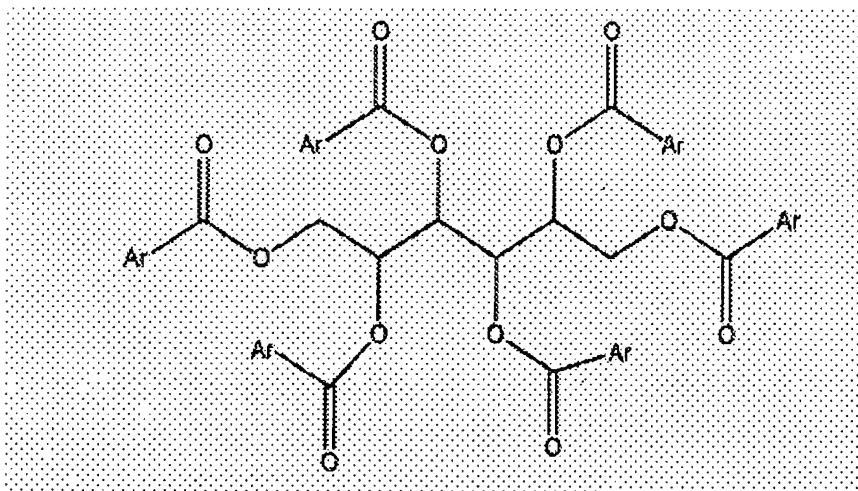
wherein in formula I, X = hydrogen, an alkyl group, an alkoxyl group, a nitro group, a halide group, a cyano group, an amino group, or an aryl group, and

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wherein in formula II,  $X = Y = Z$  = an alkoxy or an alkyl group;  $X = Y$  or  $Z$  with  $X$ ,  $Y$  and  $Z$  being selected from the group consisting of hydrogen, an alkyl group, an alkoxyl group, a nitro group, a halide group, a cyano group, an amino group, and an aryl group;  $X = Y \neq Z$  with  $X$ ,  $Y$ , and  $Z$  being selected from the group consisting of hydrogen, an alkyl group, an alkoxyl group, a nitro group, a halide group, a cyano group, an amino group, and an aryl group; or  $X \neq Y \neq Z$  with  $X$ ,  $Y$ , and  $Z$  being selected from the group consisting of hydrogen, an alkyl group, an alkoxy group, a nitro group, a halide group, a cyano group, an amino group, and aryl group --.

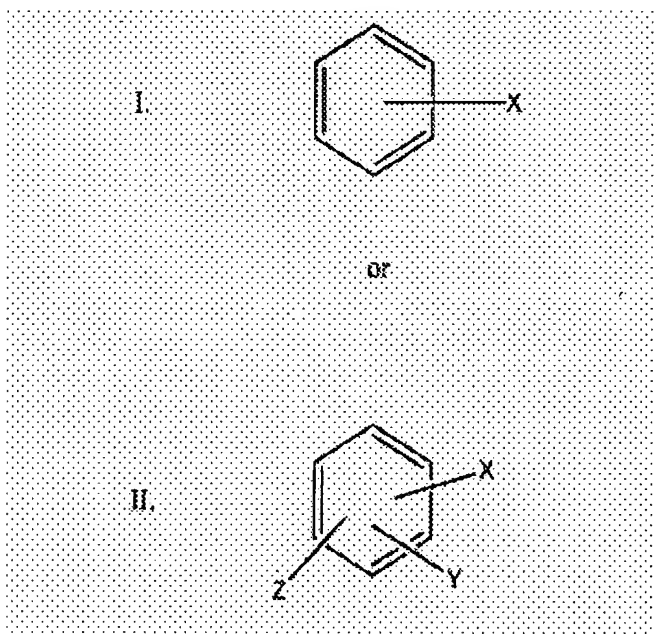
In Claim 39 (last line), after "barite", insert --

wherein the cystosol ester compound is represented by the following formula:



wherein Ar is represented by the following formula:

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wherein in formula I, X = hydrogen, an alkyl group, an alkoxyl group, a nitro group, a halide group, a cyano group, an amino group, or an aryl group, and

wherein in formula II, X = Y = Z = an alkoxy or an alkyl group; X = Y or Z with X, Y and Z being selected from the group consisting of hydrogen, an alkyl group, an alkoxyl group, a nitro group, a halide group, a cyano group, an amino group, and an aryl group; X = Y  $\neq$  Z with X, Y, and Z being selected from the group consisting of hydrogen, an alkyl group, an alkoxyl group, a nitro group, a halide group, a cyano group, an amino group, and an aryl group; or X  $\neq$  Y  $\neq$  Z with X, Y, and Z being selected from the group consisting of hydrogen, an alkyl group, an alkoxy group, a nitro group, a halide group, a cyano group, an amino group, and aryl group --.

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4. Claim rejection(s) under 35 USC 112 in the previous Office Action (Paper No. 062406) is/are removed.

5. Claim rejection(s) under 35 USC 102 and 103 in the previous Office Action (Paper No. 062406) is/are removed.

*Allowable Subject Matter*

6. Claims 3, 5-20, 23, 25-33 and 39-42 are allowed.

7. The following is an examiner's statement of reasons for allowance:

The present claims are allowable for at least the following reason(s) over the closest reference: Menaul (US 2 689 219).

Menaul discloses a W/O emulsion comprising an emulsifier of sorbitol ester (cystosol ester), and barites. (col. 1, lines 1-4, col. 4, lines 33-64 and col. 5, lines 37-46) However, Menaul does not teach or fairly suggest the specific cystosol ester containing **aromatic** moieties set forth the claimed inventions.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kuo-Liang Peng whose telephone number is (571) 272-1091. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski, can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

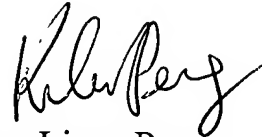
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access

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to the Private PAIR system, contact the Electronic Business Center (EBC) at  
866-217-9197 (toll-free).

klp

September 21, 2006

A handwritten signature in black ink, appearing to read 'Kuo-Liang Peng', written in a cursive style.

Kuo-Liang Peng  
Primary Examiner  
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